

**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, at 40 Foley Square, in the City of New York, on the 25<sup>th</sup> day of August, two thousand and five,

**PRESENT:** Hon. John M. Walker, Jr.,  
*Chief Judge*

Hon. Dennis Jacobs,  
Hon. Guido Calabresi,  
Hon. José A. Cabranes,  
Hon. Chester J. Straub,  
Hon. Rosemary S. Pooler,  
Hon. Robert D. Sack,  
Hon. Sonia Sotomayor,  
Hon. Robert A. Katzmann,  
Hon. Barrington D. Parker, Jr.,  
Hon. Reena Raggi,  
Hon. Richard C. Wesley,  
Hon. Peter W. Hall,

*Circuit Judges.*



**IT IS HEREBY ORDERED** that the Local Rules of the United States Court of Appeals for the Second Circuit are hereby amended on an interim basis by the adoption of Local Rule § 0.29 and the amendment of Local Rule § 0.18 by the addition of clause (8). The period for public comment on these rules extends to September 30, 2005, following which permanent adoption will be considered. Anyone wishing to comment should do so, in writing, to the Clerk of Court, 40 Foley Square, Room 1802, New York, NY, 10007.

The text of the new Interim Local Rules is as follows:

**§ 0.29. Non-Argument Calendar**

- (a) Any appeal or petition for review in which a party seeks review of a denial of a claim for asylum will be initially placed on the Non-Argument Calendar. A case on the Non-Argument Calendar will be disposed of by a three-judge panel without oral argument unless the Court transfers it to the Regular Argument Calendar.
- (b) To the extent practicable, the Clerk's Office will promptly identify proceedings to be placed on the Non-Argument Calendar and issue

scheduling orders for them upon the receipt of the certified record. The scheduling order will inform the parties that the proceeding has been placed on the Non-Argument Calendar. Any party to a proceeding on the Non-Argument Calendar may request to have the proceeding transferred to the Regular Argument Calendar. Such a request shall not be made by motion but must be included in the party's brief, identified by a separate heading, and will be adjudicated in conformity with Federal Rule of Appellate Procedure 34(a)(2) and Local Rule 34(d)(1). In its discretion, the Court may at any time transfer a proceeding from the Non-Argument Calendar to the Regular Argument Calendar. Upon the transfer of a case from the Non-Argument Calendar to the Regular Argument Calendar, no briefs may be filed, other than those specified in the scheduling order, unless leave of Court is obtained. The Court may at any time sua sponte, with notice to the parties, tentatively transfer a proceeding mistakenly placed on the Regular Argument Calendar to the Non-Argument Calendar.

- (c) The Civil Appeals Management Plan shall not apply mandatorily to proceedings on the Non-Argument Calendar. However, any party to a proceeding on the Non-Argument Calendar may request a conference under the Civil Appeals Management Plan, which will be promptly provided. A request for a conference will not alter a scheduling order.
- (d) An appeal or petition for review on the Non-Argument Calendar may be dismissed by the Clerk if, 15 days after the due date, the party seeking review has failed to file its brief. The filing of a motion for an extension of time to file a brief does not stay or alter an existing deadline. If the respondent or appellee fails to file its brief by the due date, the Clerk may calendar the proceedings for decision as early as 15 days following the due date.

#### **§0.18. Entry of Orders by the Clerk**

- (8) orders of dismissal as provided in Interim Local Rule § 0.29(d).

**Interim Local Rules §§ 0.29 and 0.18(8) take effect immediately.**

**IT IS SO ORDERED.**

FOR THE COURT,

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/s/ ROSEANN B. MacKECHNIE  
CLERK OF COURT